

**WJB-TV LIMITED PARTNERSHIP**  
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January 18, 1994

VIA FEDERAL EXPRESS

Mr. William F. Caton  
Acting Secretary  
**Federal Communication Commission**  
1919 M Street, N.W. Room 222  
Washington, D.C. 20554

RECEIVED  
JAN 19 1994  
FCC - MAIL ROOM

RE: Joint Petition for Rulemaking to Establish Rules  
for Subscriber Access to Cable Home Wiring for the  
Delivery of Competing and Complimentary Video  
Services; RM-8380

Dear Mr. Caton:

Enclosed for filing is an original and two (2) copies of  
the Comments of WJB-TV Limited Partnership to the above-referenced  
Joint Petition for Rulemaking.

Please acknowledge your receipt of this letter by file-  
stamping the enclosed copy of this letter and returning it to me in  
the enclosed self-addressed, stamped envelope.

If you have any questions or need additional information,  
please advise.

Very truly yours,

**WJB-TV Limited Partnership**

BY: Kenneth E. Hall  
Kenneth E. Hall  
General Manager

KEH/jpd  
Enclosures

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Before the

**FEDERAL COMMUNICATIONS COMMISSION**

**Washington, DC 20554**

In the matter of )  
 )  
Joint Petition for Rulemaking to )  
Establish Rules for Subscriber )  
Access to Cable Home Wiring for )  
the Delivery of Competing and )  
Complimentary Video Services )  
\_\_\_\_\_ )

RM-8380

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**REPLY COMMENTS OF  
WJB-TV LIMITED PARTNERSHIP**

WJB-TV Limited Partnership ("WJB") hereby files its reply comments in response to the joint petition filed by Media Access Project, United States Telephone Association, and Citizens for a Sound Economy Foundation advocating the adoption of new rules regarding the ownership of the inside wiring used by multichannel video providers to deliver programming to their customers.

WJB is the general partner of two "wireless cable" systems. Both systems compete head-to-head with entrenched cable television companies, who prior to WJB's entry into the marketplace, enjoyed monopoly status in their respective communities. These companies have continuously asserted ownership to inside wiring as a method of impeding WJB's ability to compete for customers, thereby thwarting one of the major objectives of Congress in enacting the Cable Television Consumer Protection and

Competition Act of 1992, that of promoting competition in the video marketplace.

While the Commission in its *Report and Order* in MM Docket No. 92-260 (released February 2, 1993) (hereinafter, the "*Report and Order*") enacted rules designed to provide for the disposition of inside wiring, it has become apparent that these rules simply are not sufficient to accomplish the goal of encouraging competition. Numerous commenters have pointed out specific deficiencies that exist in these rules.<sup>1</sup> Based on WJB's first-hand experiences, it appears that the most significant problem identified by the commenters arises from the provisions of the *Report and Order* pertaining to multiple dwelling units.<sup>2</sup> WJB is filing this response to echo the sentiments of many of those commenters and to re-propose its solution for resolving this particular problem.<sup>3</sup>

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<sup>1</sup> For example, some commenters noted that the thirty-day window in which a provider is permitted to remove the inside wiring upon the termination of service is too long. During this period, the customer may be left with the choice of either receiving no service (while he waits for the original provider to either abandon or remove the wiring) or of allowing a second provider to drill a second set of holes and install a second set of wiring into his premises. Reducing the length of the thirty-day window would ease this dilemma. See *Comments of Ameritech Corporation* at 3-4; *Comments of Pacific Bell and Nevada Bell* at 4.

<sup>2</sup> See, e.g., *Comments of the Wireless Cable Association International, Inc.* at 3-4; *Comments of Liberty Cable Company, Inc.* at 4-6; *Comments of the New York City Department of Telecommunications and Energy* at 5-6; *Nynex's Comments* at 3-5; *Comments of BellSouth* at 2.

<sup>3</sup> WJB advocated this approach in its *Response of WJB Limited Partnership*, MM Docket No. 92-260 (Filed on April 14, 1993).

The *Report and Order* establishes the "demarcation point" of an MDU as that point "at (or about) twelve inches outside of where the cable wire enters the outside wall of the subscriber's individual dwelling unit". See paragraph 12 of the *Report and Order*. This permits a cable provider whose service has been terminated to claim ownership of all of the wiring located more than twelve inches from the subscriber's outside wall, even though that wiring cannot possibly serve any purpose for a terminated provider, except to hinder a subsequent provider.

This result has created significant problems for competitive video providers, including WJB. In many MDU buildings, especially older ones, the inside wiring is located inside walls, under floors, and in the ceilings of the building. Typically, it was installed when the building was constructed, when access to walls, floors, and ceilings was available. Now, in order to reach that wiring, including the "demarcation point", a subsequent provider would be required to tear into the structure of the building. Understandably, such destruction is objectionable to many building owners and residents; as a result, the original provider of the wiring is able to retain its monopoly status simply by continuing to assert ownership of that wiring.

It is clear that the "demarcation point" established by the *Report and Order* is not sufficient to promote the Congressional objective of promoting competition. In a Petition for Reconsideration and Clarification filed last April, Liberty Cable Company proposed an alternative definition which WJB believes

should be adopted.<sup>4</sup> Specifically, Liberty believes that the demarcation point should be defined as "the point outside the customer's premises and within the common areas of the MDU (e.g., stairwells, hallways, basements, equipment rooms, storage areas, or rooftops) at which the individual subscriber's wires can be detached from the cable operator's common wires without destroying the MDU and without interfering with the cable operator's provision of service to other residents in the MDU". In other words, a wire which exclusively serves a particular unit would be treated as belonging to that unit, regardless of its length. For the reasons outlined herein, WJB urges the Commission to adopt this proposal.

Based on its experiences as an alternative video provider, WJB knows that in many MDUs, each individual unit is served by a separate wire that extends from a common point within the building to the unit; the length of the wire depends on the distance between the unit and the common point, but in virtually every instance, it is longer than twelve inches. This lay-out is diagrammed on the attached Exhibits.

Under the rules adopted by the *Report and Order*, an alternative provider in one of these MDUs would probably be required to tear into the walls, floors, and ceilings of the building in order to provide service. Although it could use that portion of each wire that begins twelve inches outside of the individual units, this option is simply not practical; this small

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<sup>4</sup> See Petition of Liberty Cable Co. for Reconsideration and Clarification, MM Docket No. 92-260 (filed on April 1, 1993).

section of available wiring does not reach the common point, and therefore is of little, if any, use to the provider. As a result, because most building owners and residents object to damage to their walls, floors, and ceilings, the subsequent operator, as a practical matter, is precluded from serving the building.

The approach proposed by Liberty Cable is a sensible one that will conform the *Report and Order* to the clear intent of Congress to promote competition. In essence, it would permit an alternative provider to use wiring that would otherwise lay idle. Since the former provider cannot possibly use a wire that is connected only to a unit to which it does not provide service, the proposal should not be objectionable to any party, except those that continue to seek to use the wiring issue as a stumbling block to competition.

For the foregoing reasons, WJB urges the Commission to amend its rules to adopt the clarification proposed above.

RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of January, 1994.

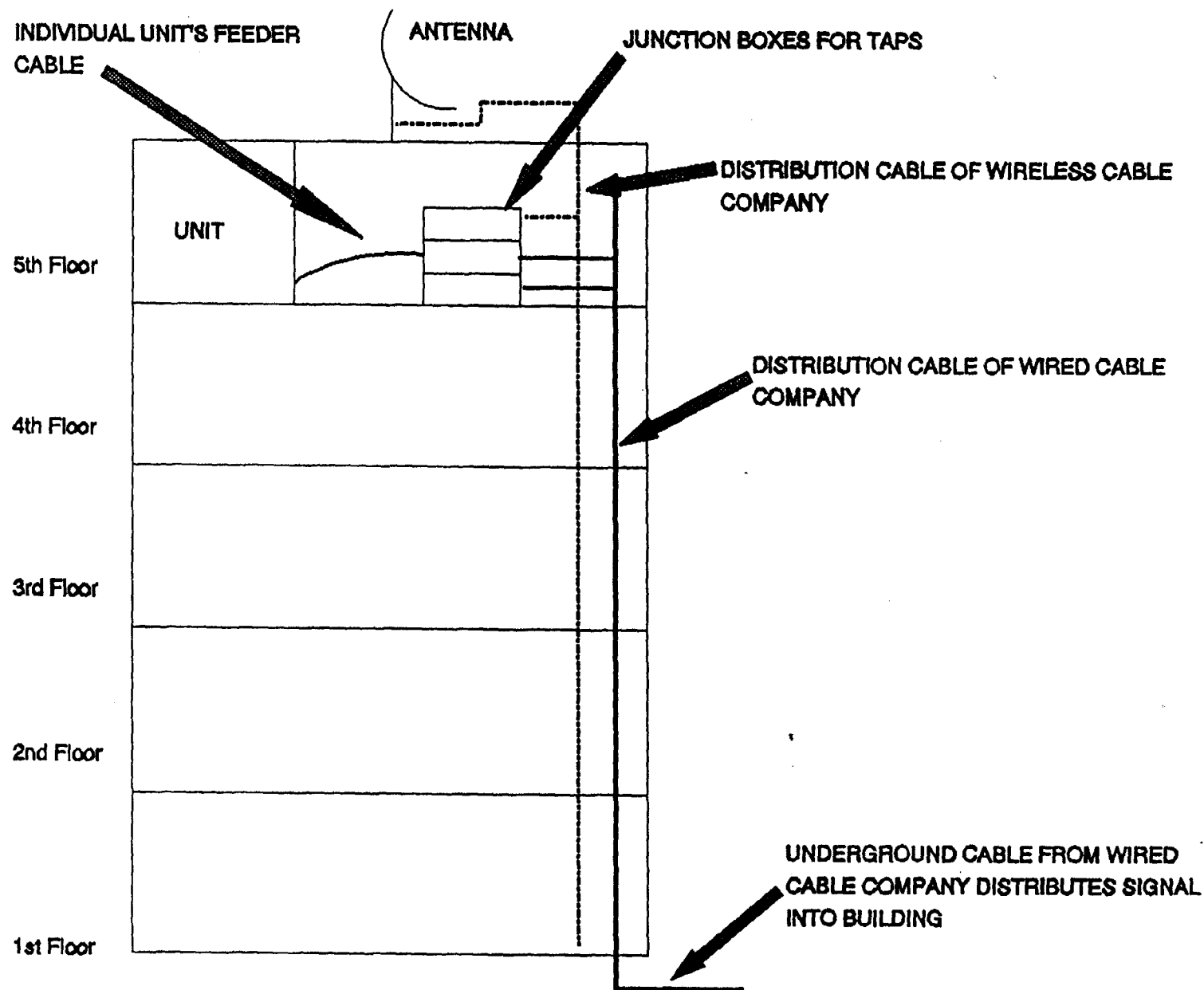
WJB-TV LIMITED PARTNERSHIP

BY: Kenneth E. Hall  
Kenneth E. Hall  
General Manager

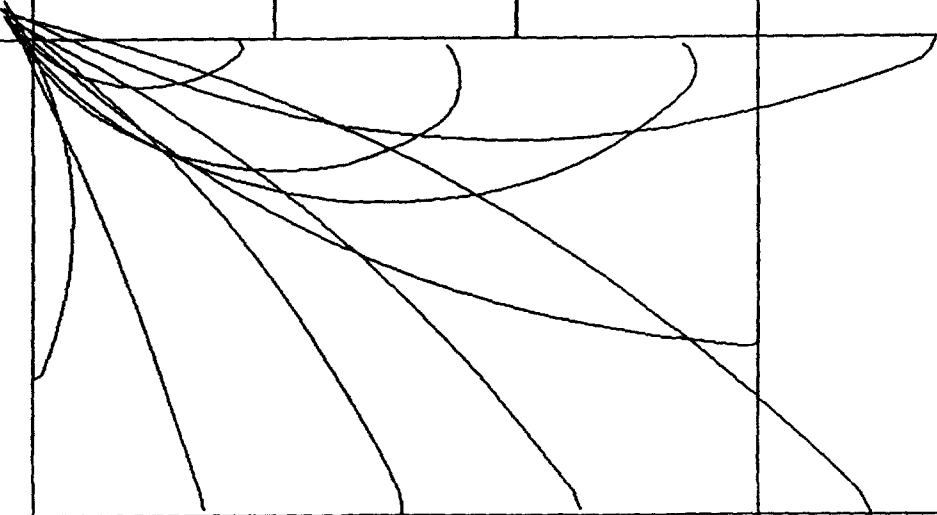
KEH/jpd

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# EXAMPLES OF TYPICAL WIRING CONFIGURATION FOR MDU SERVED BY ALTERNATIVE CABLE SYSTEMS



Equipment Room



**CERTIFICATE OF SERVICE**

I certify that copies of the foregoing **REPLY COMMENTS OF**  
**WJB-TV LIMITED PARTNERSHIP** were served on each of the parties  
listed on the attached Service List, this 19<sup>th</sup> day of January, 1994,  
by first class United States mail, postage prepaid.

  
Judy Drake

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